

Financial Institutions

“AZDFI”



Friday, March 2, 2007

Presented to the:

Arizona

Real Estate Educators Association

Real Estate Fraud

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Who We Regulate:
Financial Institutions A.R.S. § 6-101(8)

- Banks (State Chartered)—**32**
- Credit Unions (State Chartered)—**27**
- Savings & Loan Associations
(State Chartered) 0
- Independent Trust Companies—**5**
- Consumer Lenders—**22**
- Financial Institution Holding Companies 0
- International Banking Facilities 0

Financial Enterprises

- Advance Fee Loan Brokers—3
- Collection Agencies—560
- Debt Management Companies—32
- Deferred Presentment Companies—96
- Money Transmitters—62
- Motor Vehicle Dealers—654
- Premium Finance Companies—41
- Pre-need Funeral Trusts—45
- Sales Finance Companies—457

Mortgage Lending Industry

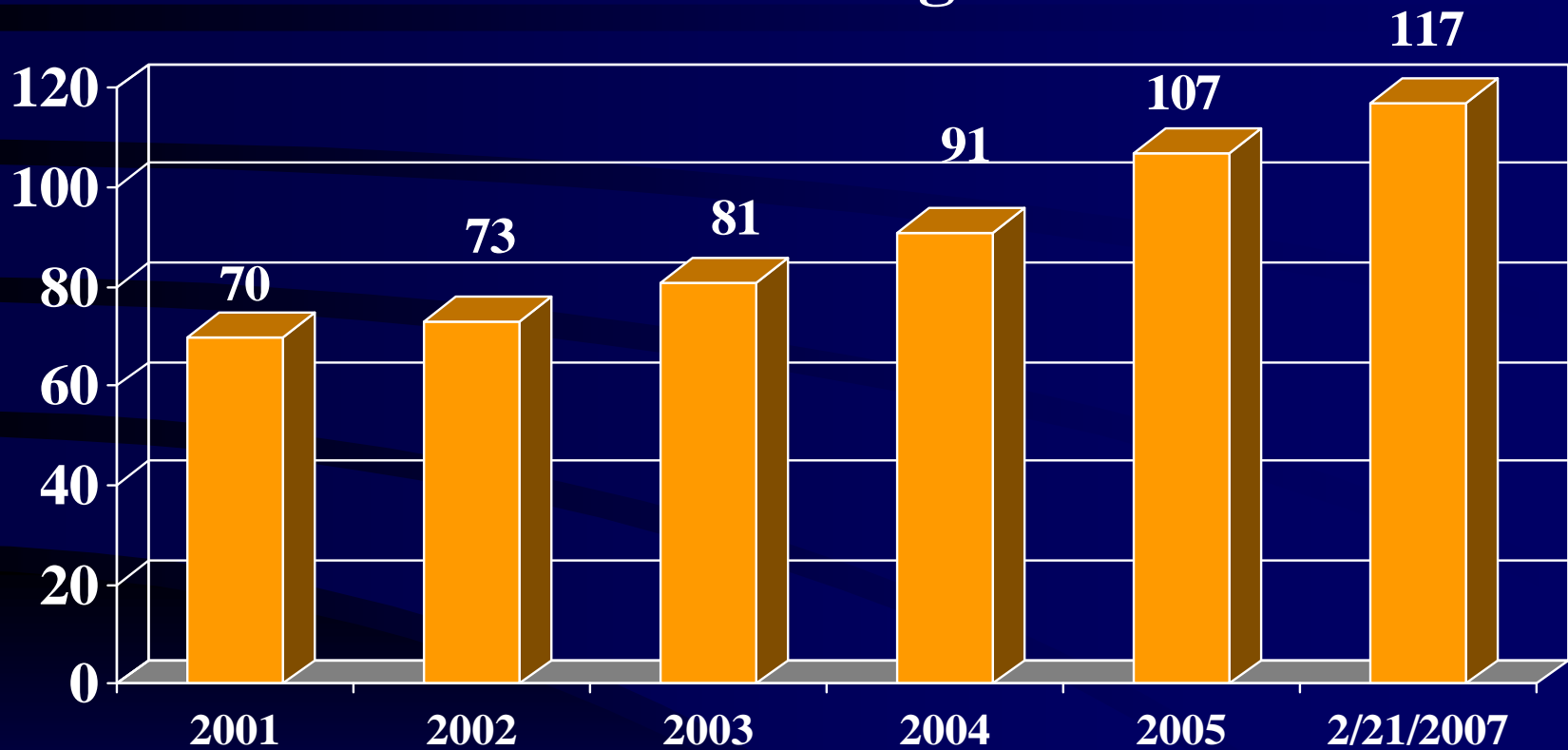
- Commercial Mortgage Bankers—**10**
- Escrow Agents—**117**
- Mortgage Bankers—**622**
- Mortgage Brokers—**1,415**

All Licenses Current as of February 21, 2007

AZDFI

Growth Home Offices

■ Escrow Agent

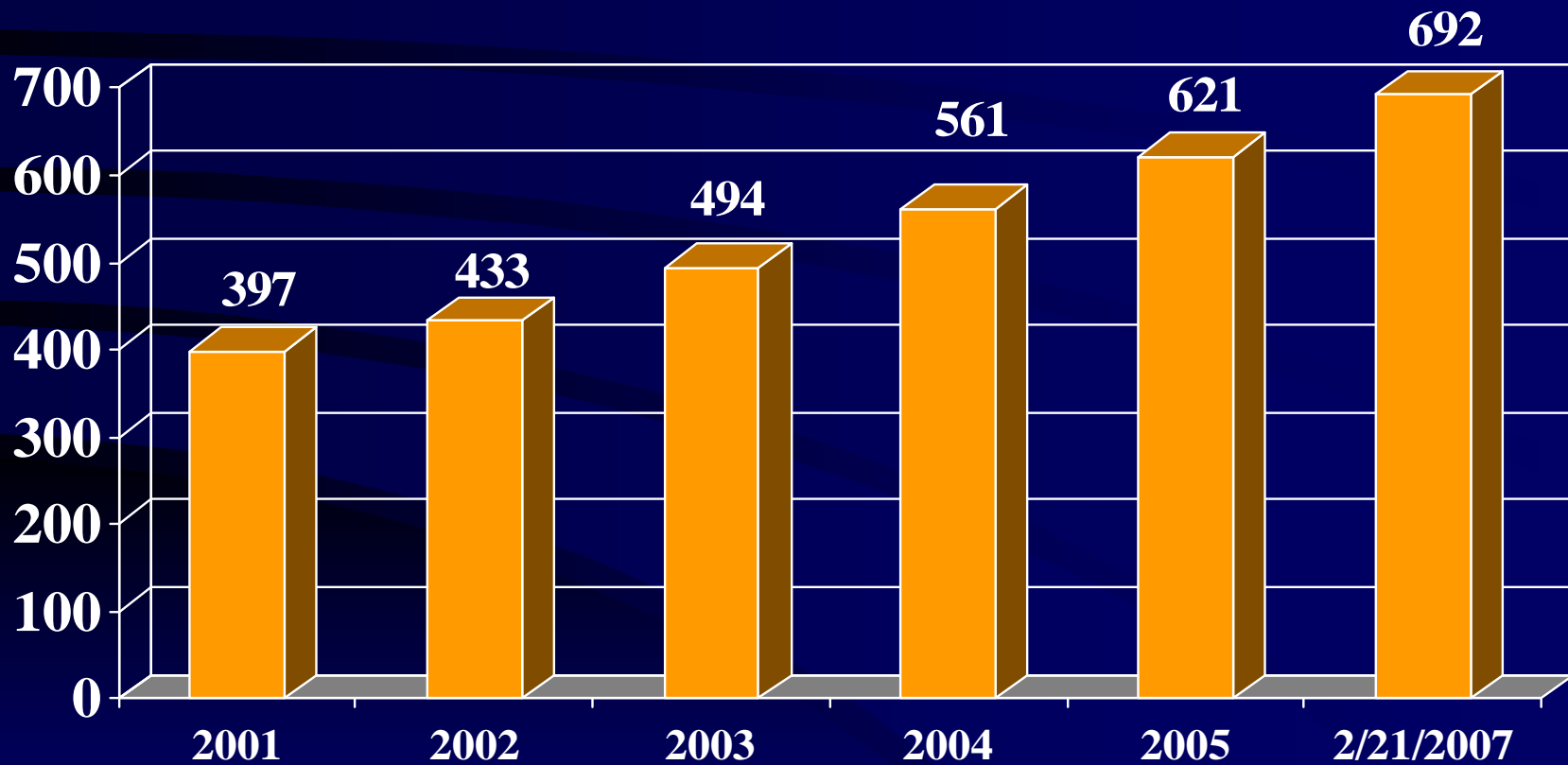


Yearly Average Increases:

2001-02 4.29% 2002-03 10.69% 2003-04 12.35% 2004-05 17.58% 2005- present 9.35%

AZDFI Growth Branch Offices

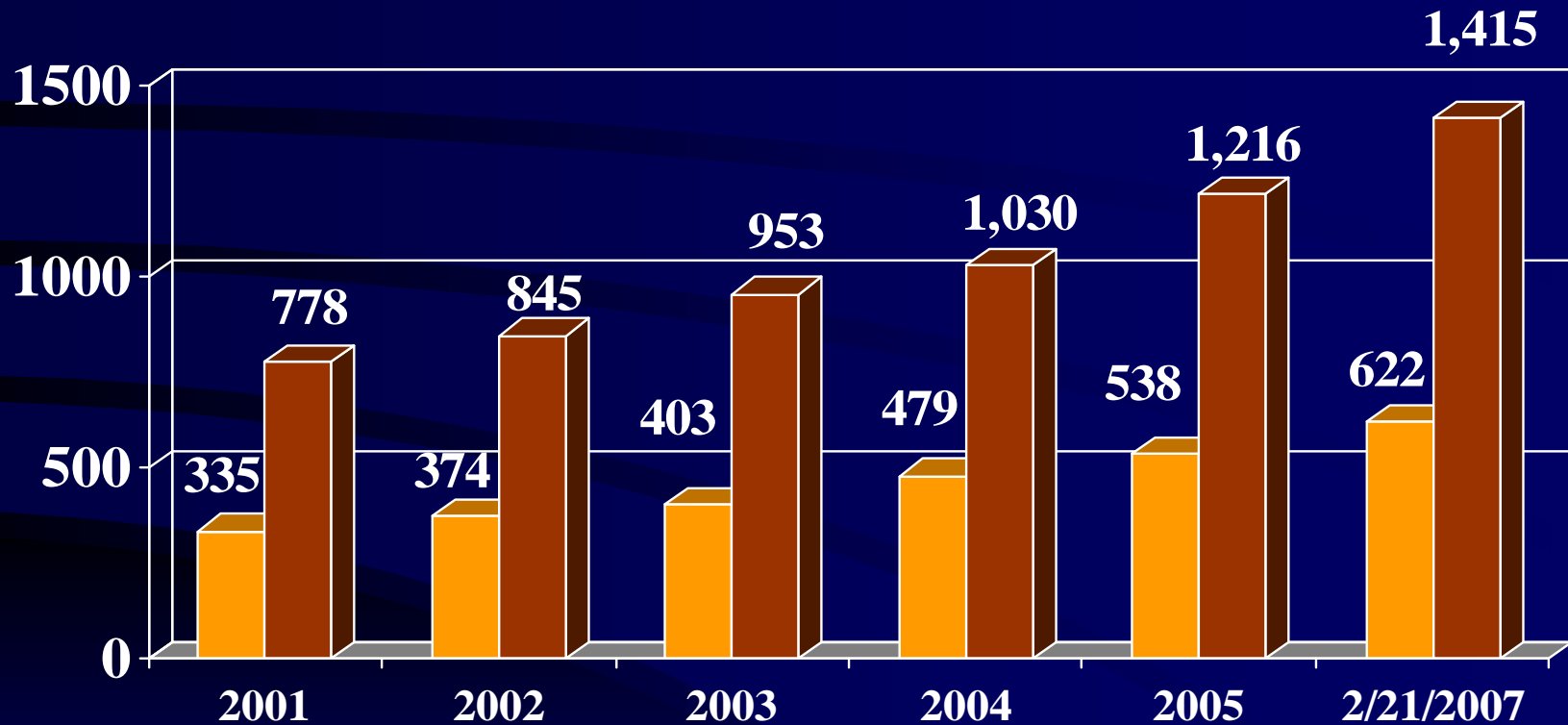
■ Escrow Agent



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Growth Home Offices

■ Mortgage Banker (BK) ■ Mortgage Broker (MB)



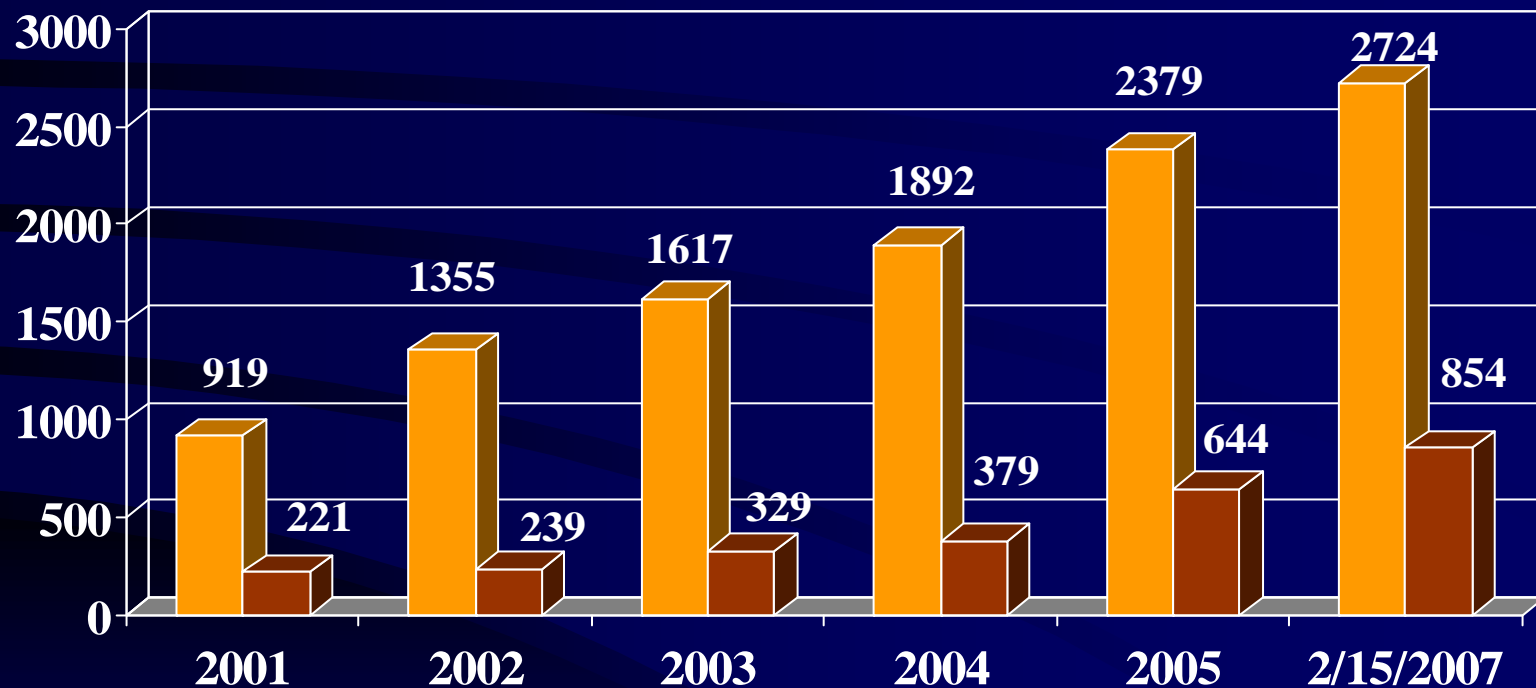
Yearly Average Increase:

Mortgage Bankers = 13.24%

Mortgage Brokers = 12.78%

AZDFI Licensing Branches

■ Mortgage Banker (BK) ■ Mortgage Broker (MB)



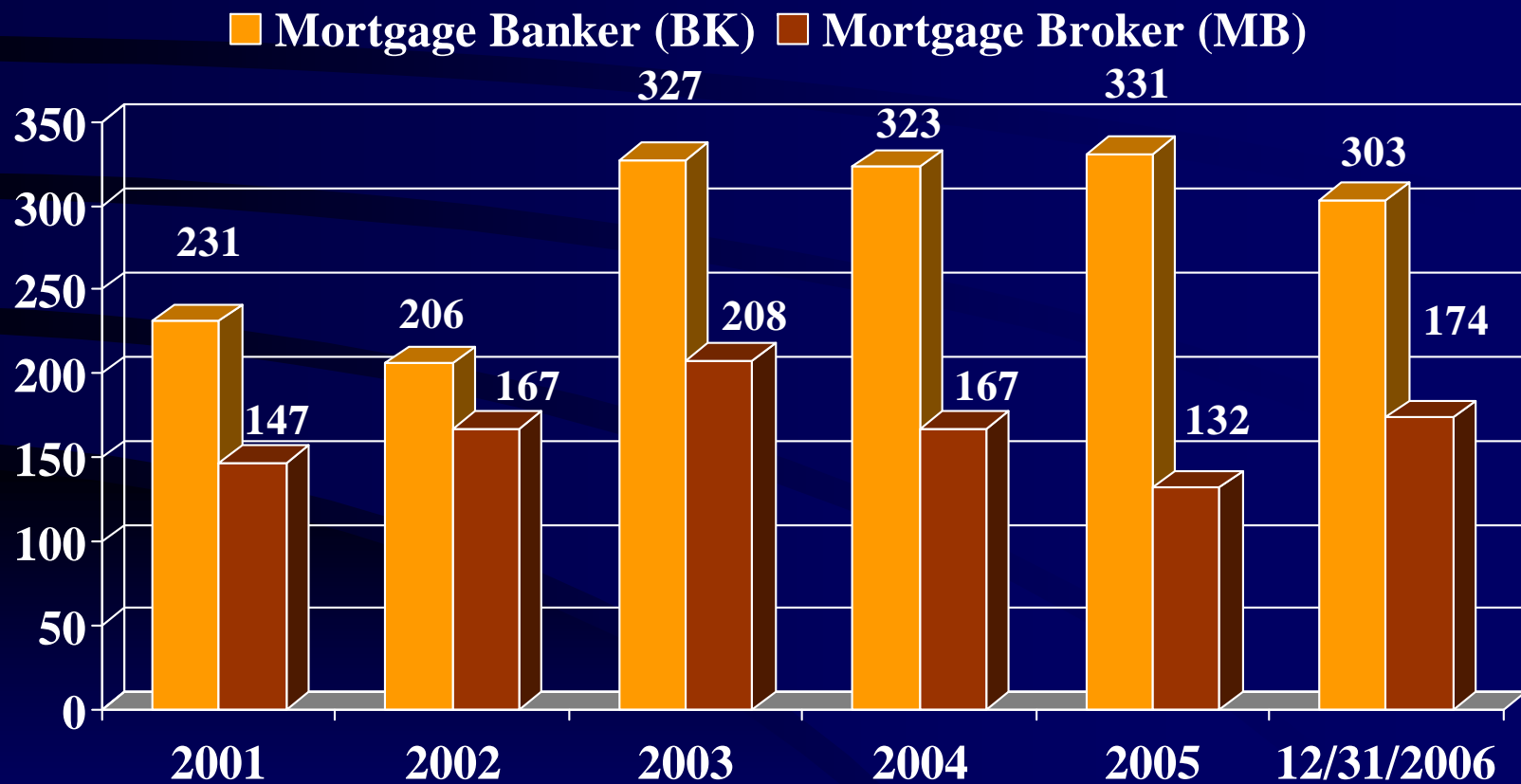
Combined Total Home Offices and Branches for Bankers and Brokers:

12/31/2001	2,253
2/21/2007	5,646

AZDFI

Consumer Affairs

Number of Complaints Closed



AZDFI

Consumer Affairs

Number of Complaints Closed



2006 Complaint Totals and Percentages

Escrow Agents	157	11.85%
Collection Agencies	385	29.06%
Mortgage Banker	357	26.94%
Mortgage Brokers	218	16.45%

Total 1,117 ~ 85.00%

**~ 56% of all DFI Complaints involve:
Escrow Agents, Mortgage Banker, and
Mortgage Brokers**

Real Estate Related Fraud

- **Property Flipping**
- **Equity Skimming / Foreclosure Rescue Scams**
- **Theft by Deception**
- **Cash Back**
- **Lease Back**
- **Shotgun**

“80% of all reported fraud losses involve collaboration or collusion by industry insiders”—FBI

Real Estate Related Fraud

Property Flipping—

Sales contract with straw buyer for more than original listing or value.

Property value inflated with fraudulent appraisal.

Seller obtains original asking price.

Straw buyer defaults and the lender takes the loss.

Real Estate Related Fraud

Foreclosure Rescue Scam—

Phantom help—the owner is “sold” some type of representation or services that never materialize or are worthless.

Bailout—the owner surrenders title and the rescuer stalls the foreclosure. The borrower then rents with the promise of buying back, but is set up for failure.

Bait and Switch—the owner surrenders (“quitclaims”) property believing that they are completing paperwork designed to help them.

Real Estate Related Fraud

Cash Back—

The buyer/borrower inflates the price of the home. The purchase contract shows an inflated price with an addendum indicating that the seller, at the close of escrow, will “credit to the buyer” the inflated amount for no reason or for various home improvements that are not made. The addendum is removed from the underwriting file by the loan officer.

The wholesaler, who buys the loan on the secondary market, does not know about the addendum and closes on the over-inflated value, thus, funding the fraud.

Real Estate Related Fraud

Lease Back—

A purchase contract provides that the seller will sell the house to the buyer and then lease it back for a period of time. The seller has no intention of living in the house, but rather to give a lump sum back to the buyer at closing.

The home value is inflated to cover the lump sum of all lease payments the seller will get at closing.

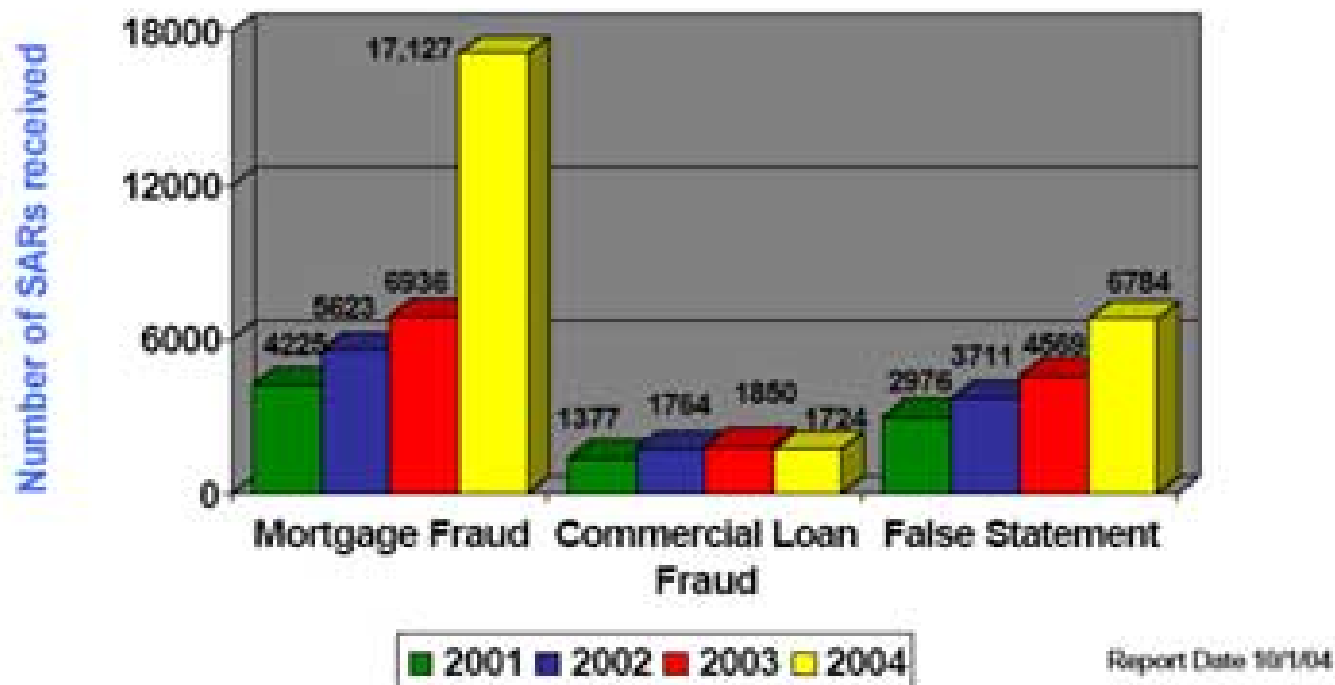
Real Estate Related Fraud

Shotgun—

- **Two or more loan packages for the same borrower**
- **Different properties; different lenders**
- **Lenders do not know about other pending loans**
- **Borrower's credit report will not show any other loans; underwriter for each loan qualifies borrower**
- **Usually coupled with a cash back scheme**

Suspicious Activity Reports (“SARS”) F.B.I.

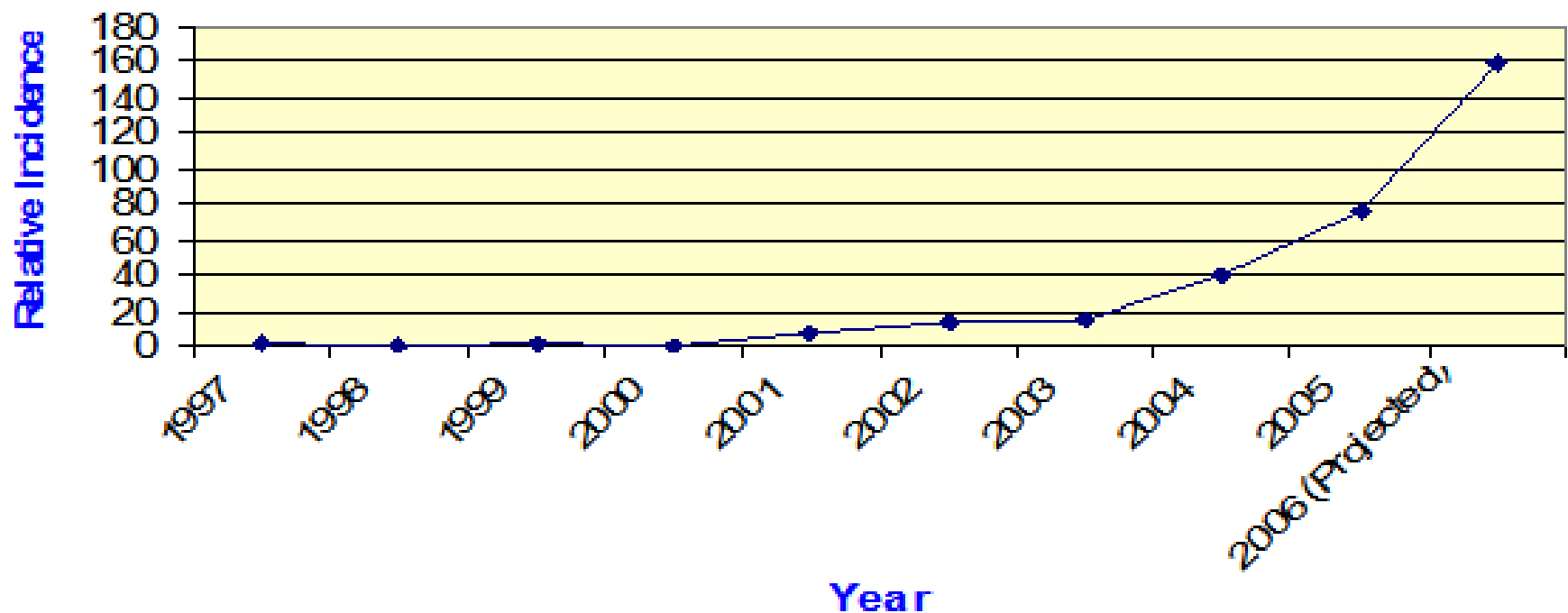
NUMBER OF VIOLATIONS OF MORTGAGE RELATED FRAUD SARS



http://www.fbi.gov/publications/financial/fcs_report052005/fcs_report052005.htm

Suspicious Activity Reports (“SARS”) FinCEN

Relative Filings by Year of all SAR Types Describing Money Laundering Associated with Commercial Real Estate



<http://www.fincen.gov/CREassessment.html>

Residential Mortgage Fraud as a Separate Type of Crime

**Provides an efficient path from
investigation to prosecution,
conviction, and sentencing of
persons engaged in the specific
crime of mortgage fraud.**

SB 1221 Residential Mortgage Fraud

During the mortgage lending process, a person commits residential mortgage fraud if, with the intent to defraud, a person does any of the following and that conduct is relied on by a mortgage lender, borrower or other party to the mortgage lending process:

- Knowingly makes any deliberate misstatement, misrepresentation or omission.**
- Knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation or omission.**
- Receives any proceeds or other monies in connection with a residential mortgage that the person knows resulted from a violation of the preceding paragraphs.**
- Files with the county recorder any residential mortgage loan document that contains a deliberate misstatement, misrepresentation or omission.**

SB 1221 Residential Mortgage Fraud

Class 4 Felony

An offense involving residential mortgage fraud

Class 2 Felony

A pattern of residential mortgage fraud or conspiracy to engage or participate in a pattern of residential mortgage fraud

SB 1221 Residential Mortgage Fraud

Mortgage Lending Process —

The process through which a person seeks or obtains a residential mortgage loan including solicitation, application, origination, negotiation of terms, third-party provider services, underwriting, signing, closing and funding of the loan.

Pattern of Residential Mortgage Fraud —

One or more misstatement, misrepresentation, or omission that is made during the mortgage lending process that involves two or more residential properties and have the same or similar intents, results or victims.

Residential Mortgage Loan —

A loan or agreement to extend credit to a person that is secured by a deed, security deed, mortgage, security interest, deed of trust or document to secure debt.

SB 1221 Residential Mortgage Fraud

Why a specific mortgage fraud law?

- **Jurors find it difficult to comprehend the advance schemes in mortgage fraud and have more difficulty identifying it with theft.**
- **To prove mortgage fraud you have to show "theft by deception" which is a two step process.**
- **Specific mortgage fraud laws first identify what the crime is so the prosecutor doesn't have to build that part of the case. If you commit these specific acts, the Legislature has said, "this is mortgage fraud."**

Mortgage Fraud Task Force

Objectives:

- To prevent multiple investigations or duplicative efforts involving the same “targets”
- To utilize resources of different agencies
- To combine resources into one centralized area
- To utilize and maximize expertise and skills of all agencies
- To pursue administrative action, removal, and the prosecution of bad actors

Mortgage Fraud Task Force

- State Agencies
 - Arizona Department of Financial Institutions
 - Arizona Attorney General's Office
 - Arizona Department of Real Estate
 - Arizona Board of Appraisal
 - Arizona Department of Housing
 - Arizona Corporation Commission Securities Division

Mortgage Fraud Task Force

- Local and Federal Agencies
 - Maricopa County Attorney's Office
 - U.S. Attorney
 - Mesa Police Department
 - Scottsdale Police Department
 - Phoenix Police Department
 - FBI; HUD
 - Homeland Security

Contact Information

**If you have a complaint, visit www.azdfi.gov
to fill out a complaint form.**

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